


CHRONO

OLL85-1399
14 May 1985

STAT

MEMORANDUM FOR:


AGC, Alien Affairs, OGC

STAT

FROM:


Legislation Division/OLL

SUBJECT:

Request for Comments on H.R. 2184

Attached for your information, review and comment is a copy of H.R. 2184, the "Naturalization Amendments of 1985". This bill, introduced by Representative Peter Rodino, Chairman of the House Judiciary Committee, would transfer the function of naturalization from the judicial branch to the Executive Branch to be vested in "naturalization judges" appointed by the Attorney General.


STAT

Attachment
as stated

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LEG/OLL:PS:jb (15 May 1985)

99TH CONGRESS
1ST SESSION

H. R. 2184

To amend title III of the Immigration and Naturalization Act to provide for administrative naturalization.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23 (legislative day, APRIL 22), 1985

Mr. RODINO introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title III of the Immigration and Naturalization Act to provide for administrative naturalization.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; REFERENCES IN ACT.

4 (a) SHORT TITLE.—This Act may be cited as the “Nat-
5 uralization Amendments of 1985”.

6 (b) AMENDMENTS TO IMMIGRATION AND NATIONAL-
7 ITY ACT.—Except as otherwise specifically provided, when-
8 ever in this Act an amendment or repeal is expressed in
9 terms of an amendment to, or repeal of, a section or other
10 provision, the reference shall be considered to be made to a

1 section or other provision of the Immigration and Nationality
2 Act.

3 **SEC. 2. ADMINISTRATIVE NATURALIZATION.**

4 (a) **IN GENERAL.**—Section 310 (8 U.S.C. 1421) is
5 amended to read as follows:

6 “**NATURALIZATION THROUGH THE ATTORNEY GENERAL**

7 “**SEC. 310. (a) IN GENERAL.**—The authority to natu-
8 ralize persons as citizens of the United States is vested in the
9 Attorney General.

10 “(b) **SOLE PROCEDURE FOR NATURALIZATION.**—A
11 person may be naturalized as a citizen of the United States in
12 the manner and under the conditions prescribed in this title
13 and not otherwise.

14 “(c) **JUDICIAL HEARING ON REVIEW.**—A person
15 whose application for naturalization under this title is denied,
16 after a final hearing before a naturalization judge, may file a
17 petition in the United States district court for the district
18 where the person resides for a hearing de novo on the per-
19 son's application for naturalization. Such petition shall be
20 styled as a proceeding under section 2201 of title 28, United
21 States Code.”.

22 (b) **CONFORMING AMENDMENT TO TABLE OF CON-**
23 **TENTS.**—The item in the table of contents relating to section
24 310 is amended to read as follows:

“Sec. 310. Naturalization through the Attorney General.”.

1 **SEC. 3. CONFORMING AMENDMENTS.**

2 (a) **UNIFIED APPLICATION PROCESS.—**

3 (1) The text of the following provisions is amend-
4 ed by striking out “a petition”, “petition”, “petitions”,
5 “a petitioner”, “petitioner”, “petitioner’s”, “petition-
6 ing”, and “petitioned” each place it appears and in-
7 serting in lieu thereof “an application”, “application”,
8 “applications” or “applies” (as the case may be), “an
9 applicant”, “applicant”, “applicant’s”, “applying”, and
10 “applied”, respectively:

11 (A) Section 313(c) (8 U.S.C. 1424(c)).

12 (B) Section 316 (8 U.S.C. 1427).

13 (C) Section 317 (8 U.S.C. 1428).

14 (D) Section 318 (8 U.S.C. 1429).

15 (E) Section 319(a) and (c) (8 U.S.C. 1430(a),

16 (c)).

17 (F) Section 322(a) (8 U.S.C. 1433).

18 (G) Section 324 (8 U.S.C. 324(a)).

19 (H) Section 325 (8 U.S.C. 1436).

20 (I) Section 326 (8 U.S.C. 1437).

21 (J) Section 328 (8 U.S.C. 1439).

22 (K) Section 329 (8 U.S.C. 1440).

23 (L) Section 330(a) (8 U.S.C. 1441(a)).

24 (M) Section 331 (8 U.S.C. 1442).

25 (N) Section 333(a) (8 U.S.C. 1444(a)).

1 (P) Section 334(a) and (f) (8 U.S.C. 1445(a),
2 (f)).

3 (Q) Section 335 (8 U.S.C. 1446).

4 (R) Section 336 (8 U.S.C. 1447).

5 (S) Section 337 (8 U.S.C. 1448).

6 (T) Section 338 (8 U.S.C. 1449).

7 (U) Section 344 (8 U.S.C. 1455).

8 (V) Section 1429 of title 18, United States
9 Code.

10 (2)(A) The heading of section 334 (8 U.S.C.
11 1445) is amended to read as follows:

12 "APPLICATION FOR NATURALIZATION; DECLARATION OF
13 INTENTION".

14 (B) The item in the table of contents relating to
15 section 334 is amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention."

16 (3)(A) The heading of section 335 (8 U.S.C.
17 1446) is amended to read as follows:

18 "INVESTIGATION OF APPLICANTS; PRELIMINARY
19 EXAMINATION OF APPLICATIONS".

20 (B) The item in the table of contents relating to
21 section 335 is amended to read as follows:

"Sec. 335. Investigation of applicants; preliminary examination of applications."

22 (4)(A) The heading of section 336 (8 U.S.C.
23 1447) is amended to read as follows:

1 "FINAL HEARINGS ON APPLICATIONS FOR
2 NATURALIZATION".

3 (B) The item in the table of contents relating to
4 section 336 is amended to read as follows:

"Sec. 336. Final hearings on applications for naturalization."

5 (5) Subsection (b) of section 334 (8 U.S.C. 1445)
6 is amended to read as follows:

7 "(b) No person under 18 years of age may file an appli-
8 cation for naturalization."

9 (b) DESIGNATION OF NATURALIZATION JUDGES TO
10 CONDUCT FINAL HEARINGS ON NATURALIZATION APPLI-
11 CATIONS.—Section 101(c) (8 U.S.C. 1101(c)) is amended by
12 adding at the end the following new paragraph:

13 "(3) The term 'naturalization judge' means a special in-
14 quiry officer specifically designated by the Attorney General
15 to carry out duties as such a judge under title III. The Attor-
16 ney General may not designate an individual as a naturaliza-
17 tion judge with respect to an application for naturalization of
18 a person if the individual has reviewed or made any determi-
19 nation on that application other than as a naturalization
20 judge."

21 (c) SUBSTITUTING REFERENCES TO ATTORNEY GEN-
22 ERAL OR OTHER APPROPRIATE OFFICIAL FOR REFER-
23 ENCES TO COURT.—

1 (1) Section 316(e) (8 U.S.C. 1427(e)) is amended
2 by striking out "court" and inserting in lieu thereof
3 "naturalization judge".

4 (2) The second sentence of section 317 (8 U.S.C.
5 1428) is amended by striking out "Attorney General
6 and the naturalization court" and inserting in lieu
7 thereof "naturalization judge".

8 (3) The third sentence of section 318 (8 U.S.C.
9 1429) is amended by striking out "court" each place it
10 appears and inserting in lieu thereof "judge".

11 (4) Subsections (b)(3) and (c)(5) of section 319 and
12 section 322(c)(2)(C) (8 U.S.C. 1430, 1433(c)(2)(C)) are
13 each amended by striking out "before the naturaliza-
14 tion court" and inserting in lieu thereof "before the
15 naturalization judge".

16 (5) Section 324(a) (8 U.S.C. 1435(a)) is amend-
17 ed—

18 (A) by inserting "and" at the end of para-
19 graph (2),

20 (B) by striking out paragraph (3), and

21 (C) by redesignating paragraph (4) as para-
22 graph (3).

23 (6) Section 324(c) (8 U.S.C. 1435(c)) is amend-
24 ed—

1 (A) by striking out "the judge or clerk of a
2 naturalization court" in paragraph (2) and insert-
3 ing in lieu thereof "a naturalization judge", and

4 (B) by striking out "naturalization court"
5 each place it appears in paragraph (3) and insert-
6 ing in lieu thereof "the Attorney General".

7 (7) Section 327(a) (8 U.S.C. 1438(a)) is amend-
8 ed—

9 (A) by striking out "any naturalization court
10 specified in section 310(a) of this title" and insert-
11 ing in lieu thereof "a naturalization judge", and

12 (B) by striking out "such court to the De-
13 partment of State and to the Department of Jus-
14 tice" and inserting in lieu thereof "to the Secre-
15 tary of State".

16 (8) Section 331(b) (8 U.S.C. 1442(b)) is amended
17 by striking out "clerk of the court" and inserting in
18 lieu thereof "naturalization judge".

19 (9) Section 332(a) (8 U.S.C. 1443(a)) is amend-
20 ed—

21 (A) by striking out "to the naturalization
22 courts" in the first sentence and inserting in lieu
23 thereof "to naturalization judges", and

24 (B) by striking out the second sentence.

1 (10) Section 333(a) (8 U.S.C. 1444(a)) is amended
2 by striking out "by the clerk of the court".

3 (11) Section 334 (8 U.S.C. 1445) is amended—

4 (A) by striking out "in the office of the clerk
5 of a naturalization court" in the first sentence of
6 subsection (a) and inserting in lieu thereof "in the
7 office of the Service",

8 (B) by striking out subsections (c), (d), and
9 (e) and inserting in lieu thereof the following:

10 "(c) Final actions on applications for naturalization shall
11 only occur on stated days, to be fixed by the Attorney Gener-
12 al.

13 "(d) Except as provided in subsection (e), an application
14 for naturalization shall be filed in person in an office of the
15 Service.

16 "(e) A person may file an application for naturalization
17 other than in the office of the Service, and a final hearing on
18 such a person's application may be held and a oath of alle-
19 giance administered other than in a public session before a
20 naturalization judge, if a naturalization judge determines that
21 the person has an illness or other disability which—

22 "(1) is of a permanent nature and is sufficiently
23 serious to prevent the person's personal appearance in
24 the office of the Service, or

1 “(2) is of a nature which so incapacitates the
2 person as to prevent him from personally appearing in
3 the office of the Service.”, and

4 (C) by striking out the first sentence of sub-
5 section (f) and inserting in lieu thereof the follow-
6 ing: “An alien over 18 years of age who is resid-
7 ing in the United States pursuant to a lawful ad-
8 mission for permanent residence may file with any
9 office of the Service a declaration of intention to
10 become a citizen of the United States. Such a
11 declaration shall be filed in duplicate and in a
12 form prescribed by the Attorney General and shall
13 be accompanied by an application prescribed and
14 approved by the Service.”.

15 (12) Section 335 (8 U.S.C. 1446) is amended—

16 (A) in subsection (b)—

17 (i) by striking out “to any naturalization
18 court” in the first sentence,

19 (ii) by striking out “to such court” in
20 the first sentence and inserting in lieu thereof
21 “to the naturalization judge hearing the
22 case”,

23 (iii) by striking out “any court exercis-
24 ing naturalization jurisdiction as specified in
25 section 310 of this title” in the second sen-

1 tence and inserting in lieu thereof "any Dis-
2 trict Court of the United States or of any
3 commonwealth or territory thereof", and

4 (iv) by striking out "a naturalization
5 court designated in section 310 of this title"
6 in the third sentence and inserting in lieu
7 thereof "a naturalization judge";

8 (B) in subsection (d)—

9 (i) by striking out "court" in the first
10 sentence and inserting in lieu thereof "natu-
11 ralization judge",

12 (ii) by striking out "court" and inserting
13 in lieu thereof "judge" each place it appears
14 in the second sentence,

15 (iii) by striking out "duplicate lists" in
16 the third sentence and inserting in lieu there-
17 of "a list",

18 (iv) by striking out "each such list" in
19 the fourth sentence and inserting in lieu
20 thereof "the list", and

21 (vi) by amending the fifth sentence to
22 read as follows: "The list shall be sent to the
23 Attorney General.";

24 (C) in subsection (e)—

1 (i) by striking out "filed in the office of
2 the clerk of the court" in the first sentence
3 and inserting in lieu thereof "docketed with
4 a naturalization judge", and

5 (ii) by striking out "court" in the second
6 sentence and inserting in lieu thereof "natu-
7 ralization judge"; and

8 (D) by amending subsection (f) to read as fol-
9 lows:

10 "(f) An applicant for naturalization who moves from the
11 district of the Service in which the application is pending
12 may, at any time thereafter, request the Service to transfer
13 the application to any district of the Service which may act
14 on the application. The transfer shall not be made without
15 the consent of the Attorney General. In the case of such a
16 transfer, the proceedings on the application shall continue as
17 though the application had originally been filed in the district
18 of the Service to which the application is transferred."

19 (13) Section 336 (8 U.S.C. 1447) is amended—

20 (A) in subsection (a)—

21 (i) by striking out "in open court before
22 a judge or judges thereof" in the first sen-
23 tence and inserting in lieu thereof "in public
24 session before a naturalization judge",

1 (ii) by striking out "the hand of the
2 court and entered in full upon a record kept
3 for that purpose" in the first sentence and
4 inserting in lieu thereof "maintained in
5 records of the Service",

6 (iii) by striking out "before the court
7 and in the presence of the court" in the first
8 sentence and inserting in lieu thereof "before
9 the naturalization judge",

10 (iv) by striking out "in open court" in
11 the second sentence and inserting in lieu
12 thereof "in public session", and

13 (v) by striking out "before a judge or
14 judges of the court at such place as may be
15 designated by the court" in the second sen-
16 tence and inserting in lieu thereof "before a
17 naturalization judge at such place as the
18 judge may designate in accordance with sec-
19 tion 334(e)";

20 (B) in subsection (b)—

21 (i) by striking out "before the court and
22 in the presence of the court" and inserting in
23 lieu thereof "before the naturalization judge"
24 each place it appears, and

1 (ii) by striking out "court may" and in-
2 serting in lieu thereof "judge may";

3 (C) in subsection (c), by striking out "court"
4 and inserting in lieu thereof "naturalization
5 judge"; and

6 (D) in subsection (d), by striking out "clerk
7 of the court" and inserting in lieu thereof "natu-
8 ralization judge".

9 (14) Section 337 (8 U.S.C. 1448) is amended—

10 (A) in subsection (a)—

11 (i) by striking out "in open court" in
12 the first sentence and inserting in lieu thereof
13 "in public session",

14 (ii) by striking out "naturalization
15 court" in the second and fourth sentences
16 and inserting in lieu thereof "naturalization
17 judge" each place it appears, and

18 (iii) by striking out "the court" in the
19 fourth sentence and inserting in lieu thereof
20 "the judge";

21 (B) in subsection (b)—

22 (i) by striking out "in open court in the
23 court in which" and inserting in lieu thereof
24 "in public session before the naturalization
25 judge to which", and

1 (ii) by striking out "in the court as" and
2 inserting in lieu thereof "by the judge"; and
3 (C) in subsection (c)—

4 (i) by striking out "in open court" and
5 inserting in lieu thereof "in public session",
6 and

7 (ii) by striking out "a judge of the court
8 at such place as may be designated by the
9 court" and inserting in lieu thereof "before a
10 naturalization judge at such place as the
11 judge may designate in accordance with sec-
12 tion 334(e)".

13 (15) Section 338 (8 U.S.C. 1449) is amended—

14 (A) by striking out "by a naturalization
15 court" in the first sentence,

16 (B) by striking out "the clerk of such court"
17 in the first sentence and inserting in lieu thereof
18 "the Attorney General",

19 (C) by striking out "title, venue, and location
20 of the naturalization court" and inserting in lieu
21 thereof "name of the naturalization judge and lo-
22 cation of the district office of the Service in which
23 the naturalization occurred",

24 (D) by striking out "the court" and inserting
25 in lieu thereof "a naturalization judge", and

1 (E) by striking out "of the clerk of the natu-
2 ralization court; and seal of the court" and insert-
3 ing in lieu thereof "of the naturalization judge;
4 and the seal of the Department of Justice".

5 (16)(A) Section 339 (8 U.S.C. 1450) is amended
6 to read as follows:

7 "RECORDS OF DECLARATIONS OF INTENTION AND
8 APPLICATIONS FOR NATURALIZATION

9 "SEC. 339. Each district office of the Service shall
10 maintain, in chronological order, indexed, and consecutively
11 numbered, as part of its permanent records, all declarations
12 of intention and applications for naturalization filed with the
13 office."

14 (B) The item in the table of contents relating to
15 section 339 is amended to read as follows:

"Sec. 339. Records of declarations of intention and applications for naturalization."

16 (17) Section 340 (8 U.S.C. 1451) is amended—

17 (A) by striking out "in any court specified in
18 subsection (a) of section 310 of this title" in the
19 first sentence of subsection (a) and inserting in
20 lieu thereof "in any District Court of the United
21 States or any commonwealth or territory thereof",

22 (B) by inserting "(or the district office of the
23 Service)" in the second sentence of subsection (h)
24 after "the court", and

25 (C) in subsection (j)—

1 (i) by inserting "(1)" before "of any nat-
2 uralization court", and

3 (ii) by adding before the period at the
4 end the following: ", or (ii) of any naturaliza-
5 tion judge, by or before whom a person has
6 been naturalized, to correct, reopen, alter,
7 modify, or vacate his order naturalizing the
8 person, within the time prescribed by the At-
9 torney General".

10 (18) Section 344 (8 U.S.C. 1455) is amended—

11 (A) in subsection (a)—

12 (i) by striking out "The clerk of the
13 court" and inserting in lieu thereof "The At-
14 torney General", and

15 (ii) by striking out "the naturalization
16 court" and inserting in lieu thereof "a natu-
17 ralization judge";

18 (B) in subsection (g)—

19 (i) by striking out ", and all fees paid
20 over to the Attorney General by clerks of
21 courts under the provisions of this title,"
22 and

23 (ii) by striking out "or by the clerks of
24 the courts";

1 (C) by striking out subsections (c), (d), (e),
2 and (f);

3 (D) in subsection (h)—

4 (i) by striking out “no clerk of a United
5 States court shall” and inserting in lieu
6 thereof “the Attorney General may not”,

7 (ii) by striking out “, and no clerk of
8 any State court” and all that follows through
9 “charged or collected”, and

10 (iii) by striking out the second sentence;

11 (E) by striking out “clerk of court”, “from
12 the clerk,”, “such clerk”, and “by the clerk” in
13 subsection (i) and inserting in lieu thereof “Attor-
14 ney General”, “from the Attorney General,”,
15 “the Attorney General”, and “by the Attorney
16 General”, respectively, and

17 (F) by redesignating subsections (g), (h), and

18 (i) as subsections (c), (d), and (e), respectively.

19 (19) Section 348 (8 U.S.C. 1459) is amended—

20 (A) by striking out subsections (b) and (c),

21 and

22 (B) by striking out “(a)” in subsection (a).

23 (d) RESIDENCE IN INS DISTRICT OR STATE FOR 3

24 MONTHS.—

1 (1) Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is
2 amended by striking out "and who has resided within
3 the State in which the petitioner filed the petition for
4 at least six months" and inserting in lieu thereof "and
5 who has resided within the State or the district of the
6 Service in which the applicant filed the application for
7 at least three months".

8 (2) Section 319 (8 U.S.C. 1430) is amended—

9 (A) in subsection (a), by striking out "has re-
10 sided within the State in which he filed his peti-
11 tion for at least six months" and inserting in lieu
12 thereof "has resided within the State or the dis-
13 trict of the Service in which the applicant filed his
14 application for at least three months",

15 (B) in subsections (b) and (d), by striking out
16 "within the jurisdiction of the naturalization
17 court" and inserting in lieu thereof "within a
18 State or a district of the Service", and

19 (C) in subsection (c), is amended by striking
20 out "within the jurisdiction of the court" and in-
21 serting in lieu thereof "district of the Service".

22 (3) Section 322(c) (8 U.S.C. 1433(c)) is amended
23 by striking out "within the jurisdiction of the natural-
24 ization court" and inserting in lieu thereof "within a
25 State or a district of the Service".

1 (4) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is
2 amended by inserting "or district of the Service" after
3 "State".

4 (5) Section 328 (8 U.S.C. 1439) is amended—

5 (A) in subsection (a)—

6 (i) by inserting "or district of the Serv-
7 ice" after "State", and

8 (ii) by striking out "for at least six
9 months" and inserting in lieu thereof "for at
10 least three months";

11 (B) in subsection (b)(1), by striking out
12 "within the jurisdiction of the court" and inserting
13 in lieu thereof "within a State or district of the
14 Service"; and

15 (C) in subsection (c), by inserting "or district
16 of the Service" after "State".

17 (6) Section 329(b) (8 U.S.C. 1440(b)) is amend-
18 ed—

19 (A) by striking out "State" in paragraph (2)
20 and inserting in lieu thereof "State or district of
21 the Service",

22 (B) by inserting "and" at the end of para-
23 graph (2), and

24 (C) by striking out paragraph (3) and redес-
25 ignating paragraph (4) as paragraph (3).

1 (c) STRIKING MISCELLANEOUS MATERIAL.—

2 (1) Section 311 (8 U.S.C. 1422) is amended by
3 striking out the second sentence.

4 (2) Section 316 (8 U.S.C. 1427) is amended by
5 striking out subsection (f).

6 (3) Section 324(a)(4) (8 U.S.C. 1435(a)(4)) is
7 amended by striking out “and the witnesses have” and
8 inserting in lieu thereof “has”.

9 (4) Section 329 (8 U.S.C. 1440) is amended by
10 striking out subsection (d).

11 (4) Section 330 (8 U.S.C. 1441(a)) is amended—

12 (A) by striking out paragraphs (2) and (3) of
13 subsection (a) and by striking out “(a)(1)” in sub-
14 section (a), and

15 (B) by striking out subsection (b).

16 (5) Section 331 (8 U.S.C. 1442) is amended by
17 striking out the second sentence of subsection (d).

18 (6) Section 336 (8 U.S.C. 1447) is amended by
19 striking out subsection (e).

20 SEC. 4. EFFECTIVE DATES AND SAVINGS PROVISIONS.

21 (a) EFFECTIVE DATE.—(1) No court shall have juris-
22 diction, under title III of the Immigration and Nationality
23 Act, to naturalize a person unless a petition for naturalization
24 with respect to that person has been filed with the naturaliza-

1 tion court before the effective date (as defined in paragraph
2 (3)).

3 (2) Except as otherwise specifically provided, any peti-
4 tion for naturalization which may be pending in a court on
5 the effective date shall be heard and determined in accord-
6 ance with the requirements of law in effect when the petition
7 was filed.

8 (3) As used in this section, the term "effective date"
9 means the first day of the fourth month beginning after the
10 date of the enactment of this Act.

11 (4) Except as otherwise provided in this section, the
12 amendments made by this Act are effective as of the date of
13 the enactment of this Act.

14 (b) INTERIM, FINAL REGULATIONS.—The Attorney
15 General shall prescribe regulations (on an interim, final basis
16 or otherwise) to implement the amendments made by this Act
17 on a timely basis consistent with subsection (a)(1).

18 (c) REPEALS.—The repeal of section 339 of the Immi-
19 gration and Nationality Act (relating to functions and duties
20 of clerks) shall not apply to functions and duties respecting
21 petitions filed before the effective date.

22 (d) GENERAL SAVINGS PROVISION.—(1) Nothing con-
23 tained in this Act, unless otherwise specifically provided,
24 shall be construed to affect the validity of any declaration of
25 intention, petition for naturalization, certificate of naturaliza-

1 tion, certification of citizenship, or other document or pro-
2 ceeding which is valid as of the effective date; or to affect any
3 prosecution, suit, action, or proceedings, civil or criminal,
4 brought, or any status, condition, right in process of acquisi-
5 tion, act, thing, liability, obligation, or matter, civil or crimi-
6 nal, done or existing, as of the effective date.

7 (2) As to all such prosecutions, suits, actions, proceed-
8 ings, statutes, conditions, rights, acts, things, liabilities, obli-
9 gations, or matters, the provisions of law repealed by this Act
10 are, unless otherwise specifically provided, hereby continued
11 in force and effect.

○